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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,235	08/13/2001	Stephen F. Gass	SDT 314	8810
27630	7590	02/14/2006	EXAMINER	
SD3, LLC 25977 S.W. Canyon Creek Road, Suite G WILSONVILLE, OR 97070			ALIE, GHASSEM	
			ART UNIT	PAPER NUMBER
			3724	
DATE MAILED: 02/14/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,235

Applicant(s)

GASS ET AL.

Examiner

Ghassem Alie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/21/02.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/01/04-10/08/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election of Invention I (claim 13) on 11/21/05 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

However, amended claim 15 will be examined, since claim 15 includes all the subject matter of claim 13 and therefore, claims 13 and 15 cannot be restricted at this time.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 13 and 15 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 12 of U.S. Patent No. 6,994,004 (application No. (10/052,705). Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 12 of patent, which depends from claim 1, teaches that

the blade is rotary blade which is inherently an electric conductive cutter as set forth in claim 13. In addition, claim 12 of the patent also teaches that the cutter and the blade inherently move relative to the frame as set forth in claim 13 of the instant application, since the adjustment mechanism is configured to raise and lower the blade and the brake. It should be noted that claim 12 of patent teaches that the rotatable blade is coupled to the frame and is extended up through the work surface. This is an indication that the adjustable mechanism extends the blade upward through the work surface of the frame and consequently relative to the frame.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laskowski et al. (4,559,858), hereinafter Laskowski, in view of Yoneda (4,117,752). Regarding claim 13, Lastowski teaches a wood working machine including an electrically cutter 69 and a brake system 16 adapted to engage and stop the cutter. Lastowski also teaches a frame 4 supported the cutter and the cutter is adapted to be raised and lowered relative to the frame and the brake 16 is configured to raise and lower with the cutter. See Figs. 1-3 and col. 3, lines 30-68 and col. 4, lines 1-62 in Lastowski.

Lastowski does not teach a detection system adapted to detect a dangerous condition between a user and the cutter and the brake system engage the cutter when the detection

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system detects the dangerous condition between the user and the cutter. It should be noted that the cutter is could be defined by blade 69, saw wheels 56, 67 and the drive shaft 43. The brake 16 engages the drive shaft and the saw wheel 56 to stop them from rotating. However, Yoneda teaches a system a detection system adapted to detect a dangerous condition between a user and a cutter 14 and a brake system 20 that engage and stop the cutter 14 when the detection system detects the dangerous condition between the user and the cutter.

It would have been obvious to a person of ordinary skill in the art at the time of invention to provide Lastowski's wood working machine with the safety system as taught by Yoneda in order to detect a detect a dangerous condition and stop the rotation of the blade and avoid possible injuries to the user.

Comment

6. It should be noted that claim 15 has not been rejected over prior art. However, in view of double patenting rejection, the allowability of the subject matter cannot be indicated at this time.

Response to Arguments

7. Applicant's arguments with respect to claims 13 and 15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Collins (2,121,069), Bane (5,210,110), Heer (3,276,497), Sberveglieri (5,943,932),

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Anderson (1,450,906 teach a saw machine having a blade and a brake mechanism.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

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about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (too-free).

GA/ga

February 2, 2006



Allan N. Shoap
Supervisory Patent Examiner
Group 3700